

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6300 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE S.K. KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

MOHAN RAVJI

Versus

STATE OF GUJARAT

Appearance:

MR PM THAKKAR for Petitioners

MR NN PANDYA for Resp. No.1

CORAM : MR.JUSTICE S.K. KESHOTE

Date of decision: 26/06/96

ORAL JUDGEMENT

One of the contentions raised by Shri N.N. Pandya, is that this Special Civil Application does not survive in view of the fact that the respondent No.6 is no more a party to this Special Civil Application. His name has been ordered to be struck off by this Court for default of petitioners themselves. The learned counsel for the petitioners on the other hand contended that even if the name of the respondent No.6 has been struck off, it

will not effect the merits of the case. I do not find any substance in the contention of the learned counsel for the petitioners. It is a case where the Gram Panchayat sold a piece of land to the petitioners by a registered Sale Deed and 'Sanad' has also been granted. The permission has also been granted by the Gram Panchayat for construction. The respondent No.6, feeling aggrieved of sale of this land, has taken the matter in revision u/s.211 of the Gujarat Panchayat Act, before the Collector and the said revision application has been allowed and the sale of land in dispute was declared to be illegal. It appears that the order of respondent No.2 dated 28.2.83 which has been passed in revision application, has also been confirmed by respondent No.1 under its order dated 2.8.83.

2. I have gone through the order passed by this Court on 21.2.91. A conditional order has been passed regarding the service of respondent No.6, who is a necessary party to this Special Civil Application, but for non compliance of the said condition, name of said party stands struck off. In the absence of necessary party, this writ petition cannot proceed. An order which has been passed in the revision of respondent No.6 in his favour becomes final and in case this order is set aside, then there will be a conflicting order, i.e. the order which stands confirmed by striking of name of respondent No.6 and the order which has been passed in his absence. This Court will not permit any such illegality in the absence of necessary party and the party which is going to be affected in case any order is passed in this petition. Hence this writ petition does not survive. In the result, this writ petition fails and the same is therefore dismissed. Rule is discharged. Ad-interim relief granted by this Court stands vacated.

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